IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 16474 of 2005(J)

PETITIONER:

MOORKOTH REVATHI,
W/O. LATE P.K. BALAKRISHNAN, AGED 68 YEARS,
RESIDING AT `LALITHALAYAM', P.O. PALAYAD,
THALSSERY, KANNUR DISTRICT.

BY ADV. SRI.R.SURENDRAN

RESPONDENTS:

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1. THE UNION OF INDIA REPRESENTED BY
THE SECRETARY, MINISTRY OF HOME AFFAIRS,
NEW DELHI.

2. THE UNDER SECRETARY TO THE GOVERNMENT
OF INDIA, FREDOM FIGHTER'S DIVISION,
MINISTRY OF HOME AFFAIRS, NEW DELHI.

3. THE STATE OF KERALA, REPRESENTED
BY THE SECRETARY TO THE GOVERNMENT
GENERAL ADMINISTRATION (FFPA) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

4. THE DISTRICT COLLECTOR, KANNUR.

R1 AND R2 BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG
R3 AND R4 BY GOVERNMENT PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF CERTIFICATE ISSUED BY THE COMMANDANT MSP, MALAPPURAM DATED 1.6.1981

EXT.P2 TRUE COPY OF ORDER NO. R.DIS. 15366/75 DATED 5.4.1975 ISSUED BY THE DISTRICT COLLECTOR, CANNANORE.

EXT.P3 TRUE COPY OF THE SWATANTRA SAINIKS SMMAN PENSION SCHEME AS AMENDED

EXT.P4 TRUE COPY OF THE APPLICATION FOR PENSION DATED 15.4.1998 FILED BY THE PETITIONER.

EXT.P5 TRUE COPY OF THE FORWARDING LETTER DATED 3.9.1999 ISSUED BY THE THIRD RESPONDENT TO THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE LETTER DATED 21.7.2000 ISSUED BY THE SECOND RESPONDENT.

EXT.P7 TRUE COPY OF THE LETTER DATED 21.9.2000 ISSUED BY THE PETITIONER TO THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C.NO. 16474 OF 2005

Dated this the 31st day of January, 2007

JUDGMENT

Writ Petition is filed for direction to the first respondent to grant freedom fighters' pension under the Swatantra Sainiks Samman Pension Scheme for the deceased husband of the petitioner who was dismissed as MSP constable on account of his participation in MSP strike. In the counter affidavit filed by the first respondent it is stated that pension is not granted for want of proper recommendation by the State Government. however, petitioner is relying on Exts. P1 issued by the MSP Commandant and P5 issued by the State Government wherein it is clearly stated that petitioner's late husband Sri. Balakrishnan was dismissed from service of MSP with effect from 21.4.1946. In view of Ext.P1 certificate issued by MSP Commandant and recommendation of the State Government, the assumption of the first respondent that State Government has categorised the petitioner's late husband along with resigned constables is obviously a mistake. In the circumstances, W.P. is allowed directing the first respondent to grant SSS pension to the

petitioner for the petitioner's late husband's participation in the MSP strike based on Exts.P1 and P5 within a period of two months from the date of production of a copy of this judgment by the petitioner. Eligible arrears will also be released to the petitioner without any delay.

(C.N.RAMACHANDRAN NAIR)
Judge